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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,518	11/15/2001	Ingo Gasser	2001-1252A	6150

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EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
3637	

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/936,518	GASSER, INGO
Examiner	Art Unit	
Hanh V. Tran	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 15 November 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-17 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 15 November 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                    6) Other: \_\_\_\_\_ .

## **DETAILED ACTION**

1. This is the First Office Action on the Merits from the examiner in charge of this application.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations in claims 2 and 3 of "a hydraulic damping device" and "a cylinder and a piston", respectively, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

3. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). However, there is an Abstract on the front sheet of the published international application. Therefore, the Abstract from the front sheet of the publication will be used at issuance.

4. The abstract of the disclosure is objected to because it includes terms such as "invention", and "said". Correction is required. See MPEP § 608.01(b).

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

***Priority***

6. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Austria on 1/14/2000, 3/10/2000, and 7/17/2000. It is noted, however, that applicant has not filed a certified copy of the Austrian applications as required by 35 U.S.C. 119(b).

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Throughout the claims, the phrase "characterized in that" is indefinite for failing to clearly define the metes and bounds of the claimed invention; it is not clear what the phrase represents. Claim 1, line 1, "or the like" is vague, thus indefinite. Throughout the claims, the phrase "is effective between" is vague, thus indefinite. Claim 13, (1) line 2, "the stops" lacks antecedent basis, (2) line 3, "and/or" is indefinite for failing to clearly define the metes and bounds of the claimed invention. Since the claims are replete with terms that are vague and indefinite, all claims will be examined as best understood.

***Claim Rejections - 35 USC § 102***

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1, 4, 7-11, and 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 4,445,726 to Rock et al.

Rock et al discloses pull-out guide fittings for drawers comprising all the elements recited in the above listed claims including a drawer track 1, a body-side support track 3, and a center track 2, such as shown in Fig 12, a rotary damping device positioned between at least two of the tracks having at least two moving parts movable relative to one another, a stop 20 provided on the center track, with the stop being formed by plates which projects from the tracks.

17. Claims 1, 4, 7, 9, 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 1,902,795 to Wolters.

Wolters discloses pull-out guide fittings for drawers comprising all the elements recited in the above listed claims including a drawer track 14, a body-side support track 12, and a center track 13, such as shown in Figs 4 & 7, a rotary damping device 41 positioned between at least two of the tracks having at least two moving parts movable relative to one another, stops (44,53) provided on the drawer track 14 and the support track 12, with the stops being formed by plates which projects from the tracks, with the damping device being supported on the center track 13.

18. Claims 1, 4-5, 13, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Germany 3,942,974 to Grass.

Grass discloses pull-out guide fittings for drawers comprising all the elements recited in the above listed claims including a drawer track 7, a body-side support track 6, and a center track, such as shown in Figs 2&3, a rotary damping device positioned on between drawer track 7 and the support track, a stop provided on the drawer track.

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

21. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rock et al in view of EP 556,613 to Migliori.

Rock et al discloses all the elements as discussed above except for the damping device being a hydraulic damping device or a cylinder and a piston damping device.

Migliori discloses a rack and pinion pneumatic actuator with counter-pressure control and damping device in order to control the damping actions, in a controlled manner, in an extremely small space at the approaching end of each working stroke, allowing a low-down to stop and reverse the sliding movement of the rack and piston assemblies. Therefore, it would have been obvious to modify the structure of Rock et al by providing a rack and pinion pneumatic actuator with counter-pressure control and damping device in order to control the damping actions, in a controlled manner, in an extremely small space at the approaching end of each working stroke,

allowing a low-down to stop and reverse the sliding movement of the rack and piston assemblies, as taught by Migliori, since both teach alternate conventional damping device, thereby providing structure as claimed.

22. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grass.

Grass discloses all the elements as discussed above except for the damping device being supported on the drawer track, instead of the support track, and the stop being provided on the support track, instead of being provided on the drawer track. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the damping device being supported on the drawer track, instead of the support track, and the stop being provided on the support track, instead of being provided on the drawer track, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Eistein*, 8 USPQ 167.

### *Conclusion*

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rock, Gasperin, Schuldt, Rock et al '934, Hagen et al, Roeck et al, and Ozawa all show structures similar to various elements of applicant's disclosure.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

HVT *HVT*  
April 7, 2003

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

*Lanna Mai*